

1 THE HONORABLE BARBARA J. ROTHSTEIN
2
3

4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

WADE K. MARLER, DDS, *et al.*,

Plaintiffs,

v.

ASPEN AMERICAN INSURANCE
COMPANY,

Defendant.

No. 2:20-cv-00616-BJR

**STIPULATION AND ORDER
GRANTING PLAINTIFFS'
UNOPPOSED MOTION TO FILE A
SINGLE OMNIBUS REPLY IN
SUPPORT OF MOTION TO
CERTIFY QUESTIONS TO THE
WASHINGTON STATE SUPREME
COURT**

KARA MCCULLOCH DMD MSD PLLC, *et
al.*,

Plaintiffs,

v.

VALLEY FORGE INSURANCE
COMPANY, *et al.*,

Defendants.

No. 2:20-cv-00809-BJR

CABALLERO,

Plaintiff,

v.

MASSACHUSETTS BAY INSURANCE
COMPANY,

Defendant.

No. 3:20-cv-05437-BJR

PLS.' UNOPPOSED MOTION TO FILE SINGLE OMNIBUS REPLY
IN SUPPORT OF MOTION TO CERTIFY

(Case Nos. 2:20-cv-00616-BJR; 2:20-cv-00809-BJR; 3:20-cv-05437-
BJR; 2:20-cv-00627-BJR; 2:20-cv-00620-BJR; 2:20-cv-00597-BJR;
2:20-cv-01176-BJR; 2:20-cv-00661-BJR; 2:21-cv-00050-BJR)- 1

KELLER ROHRBACK L.L.P.

1201 Third Avenue, Suite 3200
Seattle, WA 98101-3052
TELEPHONE: (206) 623-1900
FACSIMILE: (206) 623-3384

1 CHORAK, *et al.*,

No. 2:20-cv-00627-BJR

2 Plaintiffs,

3 v.

4 HARTFORD CASUALTY INSURANCE
5 COMPANY, *et al.*,

6 Defendants.

7
8 PACIFIC ENDODONTICS, P.S., *et al.*,

No. 2:20-cv-00620-BJR

9 Plaintiffs,

10 v.

11 OHIO CASUALTY INSURANCE
12 COMPANY, *et al.*,

13 Defendants.

14
15 NGUYEN, *et al.*,

No. 2:20-cv-00597-BJR

16 Plaintiffs,

17 v.

18 TRAVELERS CASUALTY INSURANCE
19 COMPANY OF AMERICA, *et al.*,

20 Defendants.

21
22
23
24
25
26 PLS.' UNOPPOSED MOTION TO FILE SINGLE OMNIBUS REPLY
IN SUPPORT OF MOTION TO CERTIFY

(Case Nos. 2:20-cv-00616-BJR; 2:20-cv-00809-BJR; 3:20-cv-05437-BJR; 2:20-cv-00627-BJR; 2:20-cv-00620-BJR; 2:20-cv-00597-BJR; 2:20-cv-01176-BJR; 2:20-cv-00661-BJR; 2:21-cv-00050-BJR)-2

KELLER ROHRBACK L.L.P.

1201 Third Avenue, Suite 3200
Seattle, WA 98101-3052
TELEPHONE: (206) 623-1900
FACSIMILE: (206) 623-3384

1 LA COCINA DE OAXACA LLC,

2 Plaintiff,

3 v.

4 TRI-STATE INSURANCE COMPANY OF
5 MINNESOTA,

6 Defendant.

No. 2:20-cv-01176-BJR

7
8 MARK GERMACK DDS, individually and on
behalf of all others similarly situated,

9 Plaintiff,

10 v.

11 THE DENTISTS INSURANCE COMPANY,

12 Defendant.

No. 2:20-cv-00661-BJR

13
14 CADECEUS LLC d/b/a CAFE RACER,
15 individually and on behalf of all others
16 similarly situated,

17 Plaintiff,

18 v.

19 SCOTTSDALE INSURANCE COMPANY,

20 Defendant.

No. 2:21-cv-00050-BJR

21
22
23
24
25
26 PLS.' UNOPPOSED MOTION TO FILE SINGLE OMNIBUS REPLY
IN SUPPORT OF MOTION TO CERTIFY

(Case Nos. 2:20-cv-00616-BJR; 2:20-cv-00809-BJR; 3:20-cv-05437-
BJR; 2:20-cv-00627-BJR; 2:20-cv-00620-BJR; 2:20-cv-00597-BJR;
2:20-cv-01176-BJR; 2:20-cv-00661-BJR; 2:21-cv-00050-BJR)-3

KELLER ROHRBACK L.L.P.

1201 Third Avenue, Suite 3200
Seattle, WA 98101-3052
TELEPHONE: (206) 623-1900
FACSIMILE: (206) 623-3384

**PLAINTIFFS' UNOPPOSED MOTION TO FILE A SINGLE OMNIBUS REPLY IN
SUPPORT OF MOTION TO CERTIFY QUESTIONS TO THE WASHINGTON STATE
SUPREME COURT**

In order to increase efficiencies for the parties and the Court, Plaintiffs in the above-captioned matters respectfully move this Court to allow them to file a single omnibus reply brief of no more than 15 pages in response to Defendants' oppositions to Plaintiffs' Motion to Certify Questions to the Washington State Supreme Court (the "Opposition Motions"). Plaintiffs have conferred with counsel for Defendants and they do not oppose this request.

In support of this motion, Plaintiffs hereby state as follows:

1. On February 18, 2021, Plaintiffs filed their Motion to Certify Questions to the Washington State Supreme Court (“the Omnibus Motion”) in the above-captioned *Marler, McCulloch, Caballero, Chorak, Pacific Endodontics, Nguyen, Germack, and La Cocina de Oaxaca* actions.

2. On March 10, 2021, Plaintiff Cadeceus LLC filed a substantively-identical Motion to Certify Questions to the Washington State Supreme Court (the “Cadeceus Motion”) in the above-captioned matter.

3. On March 25, 2021, Defendants responded to the Omnibus Motion by filing a 30-page Omnibus Opposition. Plaintiffs' reply to this Omnibus Opposition is due April 8, 2021.

4. On March 31, 2021, Scottsdale Insurance Company responded to the Cadeceus Motion by filing a 5-page opposition, which, among other things, incorporated by reference the arguments and citations in the March 25, 2021 Omnibus Opposition. Plaintiffs' reply to Scottsdale's opposition is due by April 14, 2021.

PLS.' UNOPPOSED MOTION TO FILE SINGLE OMNIBUS REPLY
IN SUPPORT OF MOTION TO CERTIFY
(Case Nos. 2:20-cv-00616-BJR; 2:20-cv-00809-BJR; 3:20-cv-05437-BJR; 2:20-cv-00627-BJR; 2:20-cv-00620-BJR; 2:20-cv-00597-BJR; 2:20-cv-01176-BJR; 2:20-cv-00661-BJR; 2:21-cv-00050-BJR)- 4

KELLER ROHRBACK L.L.P.

1201 Third Avenue, Suite 3200
Seattle, WA 98101-3052
TELEPHONE: (206) 623-1900
FACSIMILE: (206) 623-3384

5. After review of the two oppositions, Plaintiffs believe it will be most efficient for the parties and the Court if they respond to the two oppositions by filing a single omnibus reply brief. Plaintiffs will limit their omnibus reply brief to 15 pages, *i.e.*, half the number of pages used in the Omnibus Opposition, and less than half of the combined total of pages used by the Defendants collectively in the two opposition motions.

6. Plaintiffs will file their single omnibus reply to both oppositions by April 8, 2021.

7. Defendants do not oppose Plaintiffs' request to respond to their oppositions by April 8, 2021 with a single omnibus reply brief that is limited to 15 pages.

Now, therefore, Plaintiffs' request, which Defendants do not oppose, to file an omnibus reply brief limited to 15 pages should be granted.

ORDER

IT IS SO ORDERED.

DATED this 5th day of April, 2021.

Barbara Rothstein

Barbara J. Rothstein
UNITED STATES DISTRICT JUDGE

Presented By:

DATED this 2nd day of April, 2021

PLS.' UNOPPOSED MOTION TO FILE SINGLE OMNIBUS REPLY
IN SUPPORT OF MOTION TO CERTIFY
(Case Nos. 2:20-cv-00616-BJR; 2:20-cv-00809-BJR; 3:20-cv-05437-BJR; 2:20-cv-00627-BJR; 2:20-cv-00620-BJR; 2:20-cv-00597-BJR; 2:20-cv-01176-BJR; 2:20-cv-00661-BJR; 2:21-cv-00050-BJR)- 5

KELLER ROHRBACK L.L.P.

1201 Third Avenue, Suite 3200
Seattle, WA 98101-3052
TELEPHONE: (206) 623-1900
FACSIMILE: (206) 623-3384

KELLER ROHRBACK L.L.P.

By: s/ Amy Williams-Derry
By: s/ Lynn L. Sarko
By: s/ Gretchen Freeman Cappio
By: s/ Ian S. Birk
By: s/ Irene M. Hecht
By: s/ Gabriel Verdugo
By: s/ Nathan L. Nanfelt

Amy Williams-Derry, WSBA #28711
Lynn Lincoln Sarko, WSBA #16569
Gretchen Freeman Cappio, WSBA #29576
Ian S. Birk, WSBA #31431
Irene M. Hecht, WSBA #11063
Gabriel Verdugo, WSBA #44154
Nathan Nanfelt, WSBA #45273
1201 Third Avenue, Suite 3200
Seattle, WA 98101
Telephone: (206) 623-1900
Fax: (206) 623-3384
Email: awilliams-derry@kellerrohrback.com
Email: lsarko@kellerrohrback.com
Email: [gcappio@kellerrohrback.com](mailto:gcapio@kellerrohrback.com)
Email: ibirk@kellerrohrback.com
Email: ihecht@kellerrohrback.com
Email: gverdugo@kellerrohrback.com
Email: nnanfelt@kellerrohrback.com

By: s/ Alison Chase
Alison Chase, *pro hac vice forthcoming*
801 Garden Street, Suite 301
Santa Barbara, CA 93101
Telephone: (805) 456-1496
Fax: (805) 456-1497
Email: achase@kellerrohrback.com

Attorneys for Plaintiffs Nguyen et al., Pacific Endodontics, et al., Chorak et al., Marler et al., McCulloch, et al., Caballero, La Cocina de Oaxaca LLC, Owens Davies, P.S., Mark Germack DDS, The Seattle Symphony Orchestra, and Cafe Racer

OWENS DAVIES, P.S.

PLS.' UNOPPOSED MOTION TO FILE SINGLE OMNIBUS REPLY
IN SUPPORT OF MOTION TO CERTIFY
(Case Nos. 2:20-cv-00616-BJR; 2:20-cv-00809-BJR; 3:20-cv-05437-BJR; 2:20-cv-00627-BJR; 2:20-cv-00620-BJR; 2:20-cv-00597-BJR; 2:20-cv-01176-BJR; 2:20-cv-00661-BJR; 2:21-cv-00050-BJR) - 6

KELLER ROHRBACK L.L.P.

1201 Third Avenue, Suite 3200
Seattle, WA 98101-3052
TELEPHONE: (206) 623-1900
FACSIMILE: (206) 623-3384

1 By: s/ Matthew B. Edwards
2 Matthew B. Edwards, WSBA #18332
3 1115 West Bay Drive, Suite 302
4 Olympia, WA 98502
5 Telephone: (206) 203-1900
6 Email: medwards@owensdavies.com

7 *Attorneys for Plaintiff Owens Davies, P.S.*

8 **RUIZ & SMART PLLC**

9 By: s/ William C. Smart
10 By: s/ Isaac Ruiz
11 By: s/ Kathryn M. Knudsen
12 William C. Smart, WSBA #8192
13 Isaac Ruiz, WSBA #35237
14 Kathryn M. Knudsen, WSBA #41075
15 1200 5th Avenue, Suite 1220
16 Seattle, WA 98101
17 Telephone: (206) 203-1900
18 Email: wsmart@plaintifflit.com
19 Email: iruiz@plaintifflit.com
20 Email: kknudsen@plaintifflit.com

21 *Attorneys for Plaintiffs Jennifer Strelow,
22 DMD and Shokofeh Tabaraie DDS PLLC*

23 **HACKETT, BEECHER & HART**

24 By: s/ Brent W. Beecher
25 Brent W. Beecher, WSBA #31095
26 601 Union Street, Suite 2600
Seattle, WA 98101
Telephone: (206) 787-1830
Email: bbeecher@hackettbeecher.com

27 *Attorneys for Seattle Bakery, LLC, CSQBKR2018,
28 LLC, Piroshky Piroshky Bakery, LLC,
29 Piroshky Baking Company, LLC, and
30 SCRBRKR2017, LLC*

31 **THE LOYD LAW FIRM, P.L.L.C.**

32 By: s/ Shannon Loyd
33 Shannon Loyd
34 12703 Spectrum Drive, Suite 201
35 San Antonio, Texas 78249

36 PLS.' UNOPPOSED MOTION TO FILE SINGLE OMNIBUS REPLY
IN SUPPORT OF MOTION TO CERTIFY
(Case Nos. 2:20-cv-00616-BJR; 2:20-cv-00809-BJR; 3:20-cv-05437-
BJR; 2:20-cv-00627-BJR; 2:20-cv-00620-BJR; 2:20-cv-00597-BJR;
2:20-cv-01176-BJR; 2:20-cv-00661-BJR; 2:21-cv-00050-BJR)- 7

KELLER ROHRBACK L.L.P.

1201 Third Avenue, Suite 3200
Seattle, WA 98101-3052
TELEPHONE: (206) 623-1900
FACSIMILE: (206) 623-3384

Telephone: (210) 775-1424
Facsimile: (210) 775-1410
Email: shannon@theloydlawfirm.com

Attorneys for Plaintiff J Bells LLC

**GORDON TILDEN THOMAS &
CORDEL LLP**

By: s/ Mark A. Wilner

By: s/ Franklin D. Cordell
Franklin D. Cordell

By: s/ Kasey D. Huebner

Mark A. Wilner, WSBA #31550

Franklin D. Cordell, WSBA #26392

Kasey D. Huebner, WSBA #32890

One Union Square

600 University Street, Suite 2915

Seattle, WA 98101

Telephone: (206)

Fax: (206) 467-6292

Email: mwilner@gordontilden.com

Email: fcordell@gordontilden.com

Email: khuebner@gordontilden.com

*Attorneys for Plaintiffs Suneet Bath,
Noskenda Inc. and The Seattle Symphony
Orchestra*

PLS.' UNOPPOSED MOTION TO FILE SINGLE OMNIBUS REPLY
IN SUPPORT OF MOTION TO CERTIFY
(Case Nos. 2:20-cv-00616-BJR; 2:20-cv-00809-BJR; 3:20-cv-05437-BJR; 2:20-cv-00627-BJR; 2:20-cv-00620-BJR; 2:20-cv-00597-BJR; 2:20-cv-01176-BJR; 2:20-cv-00661-BJR; 2:21-cv-00050-BJR)- 8

KELLER ROHRBACK L.L.P.

1201 Third Avenue, Suite 3200

201 Third Avenue, Suite 320
Seattle, WA 98101-3052

TELEPHONE: (206) 623-1900

FACSIMILE: (206) 623-3384